

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-19-12
NORTH LAMB LANE SUBDIVISION
MARCH 25, 2020

I. GENERAL INFORMATION

A. Project Description

The request is for preliminary plat approval of a 6 lot clustered subdivision located at the intersection of Lamb Lane and Karrow Avenue near Whitefish, MT. The subject property is currently zoned 'R-2.5 Rural Residential'. All lots would be served by a shared, multi-user well and septic system and primary access would be from Lamb Lane via Karrow Ave.

B. Project Personnel

i. Owner

C.R.O.W. LLC
PO Box 4147
Whitefish, MT 59937

ii. Technical Representatives

A2Z Engineering	Sam Cordi Land Surveying
138 E. Center St	PO Box 323
Kalispell, MT 59904	Whitefish, MT 59937

C. Application Review Dates

1. Land Use Advisory Committee/Council

The proposal is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on April 8, 2020 and make a recommendation to the Flathead County Board of Commissioners.

3. Commission

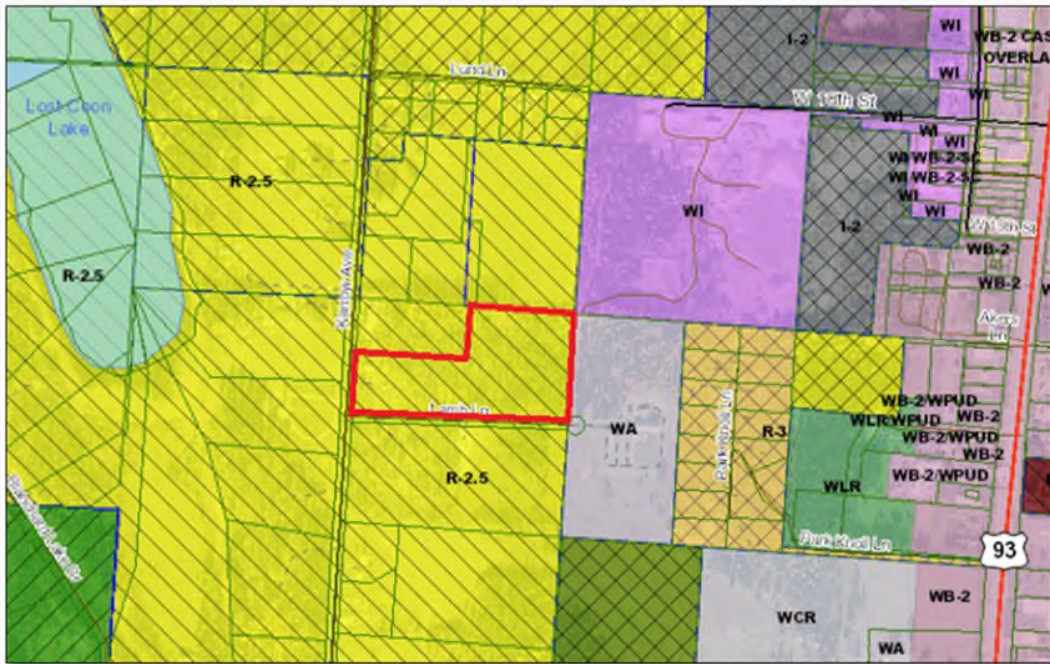
The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to May 26, 2020 which is the end of the 60-working day statutory review period.

II. ADMINISTRATIVE CHARACTERISTICS

A. Legal Description and Detailed Location of Subject Property

The subject property is 15.26 acres in size and is located at 1545 Karrow Avenue near Whitefish, MT. The property can legally be described as Lot 2 of the Assembly of God II Subdivision in Section 1, Township 30 North, Range 22 West P.M.M., Flathead County, Montana.

Figure 1: Aerial of subject property with zoning (outlined in red)



B. Subdivision Layout Detail

- | | |
|---|----------------------|
| 1. Total Subdivision Acreage: | 15.26 acres |
| 2. Acreage in Lots (spaces): | 9.33 acres |
| 3. Acreage in Roads: | 0.88 acres |
| 4. Total Park/Common Area/Open Space Acreage: | 5.87 acres |
| 5. Minimum Lot Size: | 1.472 acres |
| 6. Maximum Lot Size: | 1.902 acres |
| 7. Overall Gross Lot Density: | 1 lot per 2.54 acres |

C. Current Land Use and Zoning

The subject property currently contains a single family dwelling and outbuildings. The property is zoned 'R-2.5 Rural Residential' which typically requires a minimum lot size of 2.5 acres. The applicants are utilizing the clustering provisions outlined in Section 4.05 "Cluster Housing Development in Residential Districts", and received a Conditional Use Permit (FCU-19-03) for the proposal on May 7, 2019.

D. Proposed Land Use

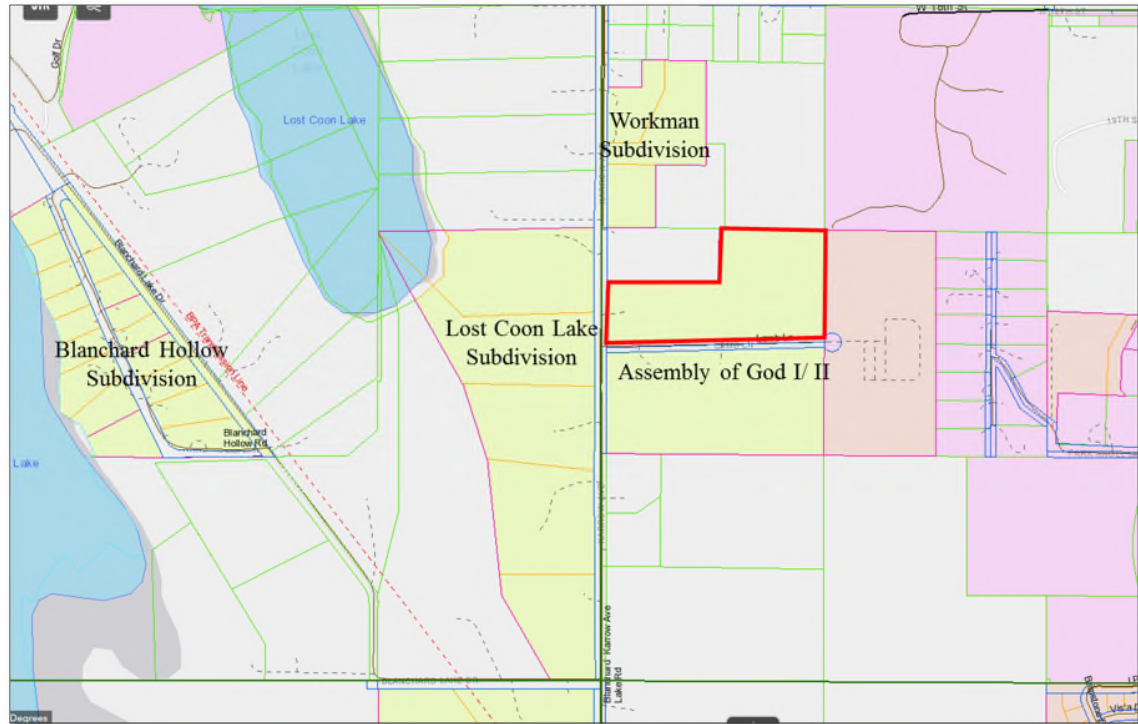
The proposed subdivision would create 6 clustered residential lots along Lamb Lane and a 5.87 acre open space along the northern half of the property. The lots range in size from 1.472 to 1.902 acres with the average residential lot size of 1.57 acres

E. Previously Considered Subdivisions in Area

Existing subdivisions in the vicinity of the proposed subdivision include the Assembly of God Subdivision which divided the original 54 acres lot into two lots in 2002. The Assembly of God II subdivision subdivided the remaining 34 acre parcel which was divided by by Lamb Lane into two lots in 2018. In addition, the Lost Coon Lane Subdivision created 5 residential lots between 6-11 acres in size in 1991, the Workman Subdivision created 3 residential, 2.5-5 acre lots in 2004, and the Blanchard Hollow

Subdivision (Phase 1 and 2) consists of a total of 17 lots approximately 1-2 acres in size (1979).

Figure 3 - Area subdivisions



F. Utilities and Services

1. **Water** – Multi-user well
2. **Wastewater** – Multi-user septic
3. **Electricity** - Flathead Electric Cooperative
4. **Natural Gas** - Northwestern Energy
5. **Solid Waste** – Republic Services
6. **Telephone Service** - CenturyLink
7. **Fire District(s)** – Whitefish Rural Fire District
8. **Police** - Flathead County Sheriff

III. COMMENTS RECEIVED

A. Agency Comments

Referrals were sent to the following agencies on March 3, 2020:

- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead City-County Environmental Health Department
- Flathead County Weeds & Parks Department
- Flathead County Address Coordinator/GIS Department
- BPA
- Flathead County Road and Bridge Department (EA)
- Whitefish Planning and Zoning Department
- MT Fish, Wildlife and Parks (EA)

- DNRC
- Whitefish School District
- Whitefish High School District
- Whitefish Rural Fire District

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated March 9, 2020.
- Bonneville Power Administration (BPA)
 - Comment: “At this time, BPA does not object to this request, as the property is 0.38 miles away from the nearest BPA transmission lines or structures.” Email dated March 10, 2020.
- MT Department of Natural Resources and Conservation
 - Comment: “Water rights: Prior to DEQ approval of the subdivision the owner will be required to request a DNRC review of water rights for the proposed six lots. This review will determine if a water right permit will be required or if water rights can be filed on the individual wells under the water right permit exceptions of MCA 85-2-306 3 (iii). A multi-user or shared well system for the proposed subdivision will likely be a combined appropriation or shared appropriation limited to 10 AF/year. If the intent is to have future owners file under the water right permit exceptions of MCA 85-2-306 3 (iii) then the owner should determine how the available volume of 10 acre-feet will be divided between the 6 lots. The minimum annual domestic use per household of 0.28 AF/year is accepted by DEQ and DNRC. 2.5 AF/year/acre is the standard lawn and garden use accepted by DNRC.

Groundwater certificate 76LJ 58518-00 for 3 domestic households and 1 acre of lawn and garden irrigation is filed on the property for a volume of 7.0 Acre-Foot per year. This groundwater certificate may need to be withdrawn or reduced if the Applicant intends to obtain water rights under the water right permit exceptions of MCA 85-2-306 3 (iii).

Floodplain: There are no mapped floodplains on the property. No issue.”
- Flathead County Environmental Health Department
 - Comment: “The proposed subdivision is subject to review under 76-4, Part 1 MCA. Potable water, wastewater, storm drainage, and solid waste disposal will be addressed through this review process.” Letter dated March 17, 2020.

B. Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on March 18, 2020, legal notice was published in the Daily Interlake on March 22, 2020, and notice of the proposal and public hearing was physically posted onsite on March 25, 2020.

As of the date of the completion of this staff report, no public comments have been received from the general public regarding the proposal. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria and Staff Findings

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed in Section 76-3-608(3) MCA and the review procedure outlined in Section 4.1 of the Flathead County Subdivision Regulations (FCSR), effective December 3, 2018.

1. Agriculture and Agricultural Water User Facilities

The proposed subdivision is expected to have minimal impacts on agriculture as the property has not been used for agriculture in the past 40 years, is currently covered in trees, and is located adjacent to Whitefish city limits. The property is zoned R-2.5 which has a minimum lot size of 2.5 acres and, while the zone allows for agriculture, the property is located squarely within a primarily residential corridor of R-2.5 and R-3 zoning along Karrow Avenue extending north towards the City of Whitefish. The Environmental Assessment indicates that of the adjacent properties only a few are used for small scale grazing and hay production. While the adjacent property is zoned WA-Agricultural, the property is utilized by a church and the closest area of SAG-5 and SAG-10 zoned properties are located approximately 2,000 feet south of the subject property along Karrow Avenue. There are no shared agricultural water works, canals, irrigation ditches, or pump houses on the property and the property is not located within an agricultural water district or area.

Finding #1 – There would be minimal impact on agriculture and agricultural water user facilities as a result of the proposed subdivision as conditioned because the subject property is not currently used for agriculture, is located adjacent to the City of Whitefish and zoned R-2.5, and the property has no irrigation infrastructure on site, is not in an irrigation district, and is not party to any irrigation agreements.

2. Local Services

i. Water and Wastewater Services

The proposed subdivision will be served by a multi-user well and multi-user septic system which are both located on Lot 1. While the property is located within 500 feet of a City of Whitefish water main, a DEQ waiver to connect was issued on February 27, 2020. Instead, the existing well on Lot 1 will be upgraded to accommodate the additional multi-user demand and serve the proposed lots via a 2" main service line running along the northern property line of the residential lots within a 15 foot waterline easement. The applicants have provided a draft Water Well Agreement and Water Supply System Easement which includes provisions for a maintenance, repair, and cost of operation.

Comment from Marc Pitman, DNRC, notes, " Water rights: Prior to DEQ approval of the subdivision the owner will be required to request a DNRC review of water rights for the proposed six lots. This review will determine if a water right permit will be required or if water rights can be filed on the individual wells under the

water right permit exceptions of MCA 85-2-306 3 (iii). A multi-user or shared well system for the proposed subdivision will likely be a combined appropriation or shared appropriation limited to 10 AF/year. If the intent is to have future owners file under the water right permit exceptions of MCA 85-2-306 3 (iii) then the owner should determine how the available volume of 10 acre-feet will be divided between the 6 lots. The minimum annual domestic use per household of 0.28 AF/year is accepted by DEQ and DNRC. 2.5 AF/year/acre is the standard lawn and garden use accepted by DNRC.” The Environmental Assessment outlines general allocations for proposed domestic and irrigation use for the 6 residential lots, however these calculations will be reviewed by the DNRC Water Resource Division prior to DEQ approval.

As no City of Whitefish sewer main exists within proximity to the subdivision, the applicants will utilize a multi-user septic system. According to the application, “The sewage system will be comprised of a STEP system of waste collection using a small diameter main that then pumps to a level two treatment system. The level two treatment system then doses the proposed drainfield. All components of this system shall meet county and state standards.” A draft Septic System and Pipeline Easement Agreement was provided with the application and includes provisions for maintenance and operation. A septic design report and non-degradation calculations were provided for the proposed subdivision which indicate non-degradation compliance with MDEQ standards.

As explained by the Flathead City-County Environmental Health Department, “The proposed subdivision is subject to review under 76-4, Part 1 MCA. Potable water, wastewater, storm drainage, and solid waste disposal will be addressed through this review process.” The proposed subdivision would be required to be reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality prior to final plat approval.

Finding #2 – The subdivision will have minimal impact on water and wastewater services because the subdivision will utilize a multi-user well and septic system with adequate easements for water and sewer mains, the proposed wastewater treatment system appears to meet DEQ non-degradation standards, and the water and wastewater treatment proposal will be reviewed and approved by the Flathead City-County Environmental Health Department and DEQ prior to final plat approval.

ii. Solid Waste Disposal

The Flathead County Solid Waste District, typically requests that all new subdivisions in Flathead County use a contract hauler to bring solid waste to the landfill and that the outlying green box sites should not be the primary method of solid waste disposal. The application states the subdivision will utilize a contract hauler.

Finding # 3 – Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management.

iii. Roads

Primary access to the subdivision exists via Karrow Road, a paved County collector road within a 60 foot ROW, with direct access to lots from Lamb Lane, a paved local road within a 60 foot easement that terminates in a cul-de-sac. The preliminary plat materials indicate access to Lots 2-6 will be from shared driveways along Lamb Lane. While Lot 1 has an existing approach onto Karrow Avenue, Section 4.7.7(c) indicates, *“Each lot shall abut onto a subdivision or local road and have legal and physical vehicle access. Direct access to a collector or arterial road is not permitted unless no other reasonable alternatives exist or the proposed subdivision is otherwise qualified for administrative review pursuant to Section 4.2.3(a). Existing encroachment permits do not preclude requiring alternative locations for access to individual lots.”* In order for Lot 1 to have access to a local road, the approach will need to be moved to Lamb Lane and the approach from Karrow Avenue abandoned.

Because the subject property is currently developed with a single family dwelling, the proposed subdivision would add approximately 5 new residential lots. The CUP application and preliminary plat materials indicate Lot 1-6 will likely be developed with a single family dwelling and ADU which add 10 ADT and 7 ADT, respectively, for a total of 92 additional vehicle trips to Lamb Lane and Karrow Avenue. According to the road counts from 2012, there were 1,292 ADT on Karrow Avenue which could mean an increase in traffic of up to 7%. No road counts exist for Lamb Lane, however the only development utilizing the dead end road is a church, with traffic primarily on Sundays, and a 19 acre residential lot to the south.

The applicants have also submitted a draft Private Easement and Road Maintenance Agreement for Lamb Lane. The easement and road maintenance agreement between all users of the road require the “Owners” to share the cost of road maintenance equally.

Finding #4 – Impacts on area roads would appear to be acceptable with the imposition of conditions because all lots would be accessed by Lamb Lane, a paved local road and a Private Easement and Road Maintenance Agreement would ensure road maintenance is accommodated on the shared road.

iv. Schools

The proposal is located in the Whitefish School District and Whitefish High School District. According to the 2017 Census Data there are 48,741 housing units in Flathead County. The Flathead County Statistical Report of Schools 2018 states there are 16,473 students enrolled in public, private and home schools. The total students (16,473) divided by the total households (48,741) equals approximately 0.34 students per household. Therefore, 6 single family homes could generate approximately 3 school age children.

The Whitefish Elementary school has seen an increase of 19% in the last ten years (2010-2019) while the Whitefish High School District has seen a 17% increase in the last ten years and a 10% increase in student population since last year. No comments were received from the Whitefish School District regarding the proposal.

v. Mail Delivery

The applicant states the mail boxes will be centralized and the site plan shows a tentative location for a mailbox pull-out on Lamb Lane near the intersection with Karrow Avenue. The developer will be required to submit plans for review and written approval from the local postmaster as a condition of final plat approval.

vi. Recreation

The proposed subdivision is located on the outskirts of the City of Whitefish where there are a wide range of recreational opportunities. Because the proposed subdivision is utilizing the clustering provisions of Section 4.05 FCZR, the applicants have created smaller lots clustered along Lamb Lane with the intent of establishing a 5.87 acre open space that will include a pedestrian trail connecting Karrow Avenue to the property to the east. According to the Environmental Assessment, “The subdivision proposes to set aside 5.87 acre Park Open Space with an irrevocable covenant prohibiting further subdivision or development with future consideration for Conservation Easement- in essence Parkland.”

Pursuant to Section 4.7.24 FCSR, parkland dedication is required for residential subdivision lots created that are less than five gross acres in size. All 6 residential lots are between 1 and 3 acres in size which requires an amount of 5% of the combined gross area of the lots (9.33 acres) be dedicated as parkland, or 0.47 acres. Section 4.7.24(d)(ii) allows parkland dedication to be met when, “*the subdivider proposes to dedicate parkland, within the subdivision and maintained by the homeowners association in an amount equal to or exceeding the area required pursuant to Subsection (e).*” The 5.87 acres of open space is designed for resident use and will be maintained by the HOA.

The Flathead County Trails Plan designates Karrow Avenue as proposed collector therefore a bicycle and pedestrian easement will be required along the west side of the subject property, running parallel to Karrow Avenue, in accordance with Section 4.7.19 of the subdivision regulations.

Finding #5 – Impacts on local services with regard to schools, recreation, and mail delivery would appear to be acceptable as the proposed subdivision would add approximately 3 students to the local school district, the applicant is proposing centralized mailboxes, parkland dedication is being accommodated by the 5.87 acre open space which will be maintained by the Homeowners Association, and a bike and pedestrian easement is shown on the preliminary plat along Karrow Avenue.

3. Public Health And Safety

i. Storm Water Drainage

In order to accommodate storm water drainage, a system of bioretention areas are proposed along Lamb Lane, new driveways, and beside residential development. According to the environmental assessment, “the site proposes to have 3 different areas of Bioretention as shown on the Storm Water Drainage plan. The Bioretention for driveways need to be able to hold 2017.1 gallons of stormwater runoff. The Bioretention around building structures will need to be capable of holding 1585.7 gallons of storm water runoff. This is broken down into 2 areas- maximum square footage of house is 1300 sq ft and garage/accessory is 700 sq ft.” As noted above and acknowledged by the Environmental Assessment, the

stormwater drainage plan will be reviewed by the DEQ and a Certificate of Subdivision Approval required prior to final plat approval.

Finding #6 – Impacts from storm water run-off will be acceptable because the applicants have proposed bioretention facilities along Lamb Lane, all new driveways, and residential structures and the stormwater management plan will require review and approval by the DEQ prior to final plat approval.

ii. Fire/Emergency Medical Services

The proposed subdivision is located within the jurisdiction of the Rural Whitefish Fire District and would be served by the District and the Flathead County Sheriff's Department in the event of an emergency. The closest fire station located on Flathead Avenue approximately 2.5 road miles from the subject property. Comments from the Whitefish Fire Department submitted with the application state "The Whitefish Fire Department does provide Fire and Emergency protection to the new 6 lot subdivision on Lamb Lane. The hydrant that is closest to Karrow Ave was tested and is in working order. I would also hope that all the addresses will be a Lamb Lane and not a Karrow address." The fire department seems to indicate no concern with the proposed subdivision.

The property is located within the Wildland Urban Interface and is designated as a County-wide priority area. The property is not located within a fire district priority area. The application includes a Fire Prevention, Control, and Fuels Reduction Plan which appears compliant with requirements outlined in FCSR 4.7.27(b). The plan identifies the property is currently forested, although thinned in 2000, and additional thinning will be completed around the park and within the building envelopes. The plan requires, "

- A. Park area will be thinned in according to greater than 60ft from structure zones at time of development. Creating tree clusters with 10ft spacing between. The 5ft ADA pathway will create full break the entire length of the north boundary. Future maintenance of this standard will be under the HOA and outlined in the CC&R's. primarily with coniferous trees, and the plan discusses options for thinning and pruning. The plan calls for thinning trees 10 to 15 feet between the crowns, pruning limbs on all remaining trees to 15 feet or 1/3 of the total crown height whichever is less and maintaining surface vegetation at 12 feet or less.
- B. Homeowners will be required to have a 5ft nonignitable boundary around structures, 5ft to 30ft zone from structures will have 10-12ft between tree clumps with branches cleared 6ft up, 30-100ft zone will allow tree clusters with 10ft spacing between. These requirements will be in the CC&Rs."

In order to comply with FCSR Section 4.7.27, notes A through D of FCSR Section 4.7.27(a)(ii) should be required to be placed on the face of the Final Plat. It is anticipated the public health and safety risk as a result of wildfire could be relatively low for the proposed subdivision as the subdivision has good access, will undergo further fuels reduction and is located relatively close to emergency service provider stations.

Finding #7 – Impacts on fire and medical services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Whitefish Fire Department in the event of an emergency, would be required to meet the requirements of the fire district and the area located within the WUI will be managed and thinned as noted in the Fire Prevention, Control, and Fuels Reduction Plan and the HOA CC&Rs.

iii. Police Services

The proposed subdivision is located near an urban area of Flathead County and will be served by the Flathead County Sheriff's Department. The combination of existing staff levels, shift rotations, size of the county, the dispersed nature of the population, and the property's distance from the Flathead County Sheriff's Office in Kalispell may lead to delayed response times in the event of an emergency.

Finding #8 – Impacts on police services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Flathead County Sheriff's Department in the event of an emergency.

iv. Impact of Noise

While some noise and vibration will probably result from construction, these impacts will be limited in duration and should not negatively impact the surrounding area. No noise beyond what is typical for a residential area is anticipated as a result of the proposed subdivision. The proposed residential use is not anticipated to generate permanent continuous noise impacting area residents or wildlife.

v. Air Quality

Primary access to the subdivision occurs via Karrow Avenue and Lamb Lane which are both paved roads. The applicant has submitted a "Dust Control Plan" compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

Finding #9 - Adverse impacts to air quality and noise are not anticipated with standard conditions as all roads accessing the subdivision are already paved, a Dust Control Plan was provided to mitigate potential issues of dust during construction and impacts of noise are not expected to extend beyond property lines.

vi. High Voltage Electric Lines/High Pressure Gas Lines

There are no high pressure gas lines or high voltage electrical lines on the subject property.

vii. Airport Influence Areas

The subject property is not within an airport influence area.

Finding #10 – The proposal does not appear to have an impact on high voltage electric lines, high pressure gas lines or an airport influence area because the property is not located near any of these hazards.

4. Natural Environment

i. Soils

According to NRCS soils data, soils onsite are generally comprised of Whitefish cobbly silt loam with 0 to 7 percent slopes (Wr), Whitefish cobbly silt loam with 7 to 12 percent slopes (Ws) and Whitefish silk loam with 0 to 3 percent slopes (Wza). The NRCS Web Soil Survey seem to indicate that these soils will not pose limitations for development due to slope and groundwater issues and test holes on the subject property confirm a depth to ground water of at least 72” on Lot 1 where the proposed drainfield will be located. It is therefore anticipated soils on site would not pose a risk for health and safety for typical residential uses as other area properties and roads similarly situated appear to be developed with adequate stability.

ii. Geologic/Avalanche Hazards

The subject property is relatively flat with minimal slopes towards the northeast corner of the property. According to the EA submitted with the application materials and confirmed by a staff site visit, no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards are present on the subject property.

Finding #11 – No impacts from soils and geological and avalanche hazards are anticipated because the property is relatively flat and there is no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards on the property.

iii. Flora

A search conducted by the Montana Natural Heritage Program identified this general area of the County may contain 9 plant species of concern which include: Beck Water-Marigold, Watershield, Pygmy Water-Lily, Panic Grass, Slender Conntongrass, Water Bulrush, Sprangletop, Manatocaulis Moss, and Meesia Moss. Because all but the grass species have aquatic or wetland habitats, it is not expected that the proposed development will have significant impact on flora. The Environmental Assessment states, “The site is listed as a Moist Montane Forest as designated by Flathead County Community Wildfire Protection Plan 2011. There are no critical plant communities such as stream banks, shoreline, steep slopes, or possible high wind or water erosion areas. The whole site is comprised of mixed forest with tree species of Engleman Spruce, Douglas Fir, Aspen, Paper Birch, Cotton Wood, and Larch.”

The prevention of noxious weeds is particularly important with regard to construction and development. As such, and pursuant to Section 4.7.25 FCSR, an approved weed control management plan, applicable to all lots, will be required as a condition of approval.

iv. Riparian/Wetland Areas

There would be no impact to riparian or wetland areas because no riparian or wetland areas occur on the subject property. The closest water body and mapped wetland is over 1,000 feet to the west.

Finding #12 – No impacts to the flora and riparian/ wetland area are anticipated on the subject property as there are no riparian area on the property and the nearest

body of water and wetland is located approximately 1,000 feet to the west and a weed management plan will be required as a condition of final plat approval.

v. Floodplain

According to FEMA FIRM Panel 30029C1090J, the subject property contains area mapped as unshaded Zone X. Zone X is defined as areas determined to be outside the 0.2% annual chance floodplain.

Finding #13 – The proposal would not introduce adverse impacts to public health and safety in regard to flood risk because the subject property does not contain any land located within a Special Flood Hazard Area.

5. Wildlife and Wildlife Habitat

Due to the proximity of the subject property to urban development, minimal impact to wildlife is expected as a result of the proposed subdivision. According to data from the Montana Natural Heritage Species of Concern Program, 14 species of concern are located in the vicinity of the proposed subdivision. These species include; Hoary Bat, , Little Brown Myotis, Fisher, Grizzly Bear, Northern Goshawk, Evening Grosbeak, Pileated Woodpecker, Common Loon, Cassin's Finch, Varied Thrush, Northern Alligator Lizard, Bull Trout, Westslope Cutthroat Trout, and Subartic Bluet. The fish species' habitat includes mountain streams, rivers, and lakes, the insect species habitat includes wetlands and the Common Loon habitat is lakes and emergent vegetation which are not found on the subject property and are not likely to be impacted by the proposed subdivision. The Cassin's Finch, Fisher, Hoary Bat, Pileated Woodpecker, Varied Thrush and Evening Grosbeak general habitat is listed as moist conifer forest, riparian and forest which exist on the subject property.

Any type and scale of development can be expected to have an impact on wildlife in some way, particularly when it is located in a forested area of the County. However, the proposal incorporates clustering and 5.87 acres of open space which could help mitigate impacts on area wildlife. While the presence of humans and their daily activities including the keeping of domestic pets has a direct impact on wildlife, the CC&R's include standard language requested by the MT Fish, Wildlife and Parks recommendations for development. As of the writing of the staff report, no comments have been received from MT FWP, although the Environmental Assessment includes a statement from Jessy Coltrane , "as development continues to accelerate in the area and the valley as a whole, loss of deer winter range is continual battle. But overall, as subdivisions go, your development alone will have relatively less impact than many of the others occurring throughout the valley."

Finding #14 – Impacts from the proposed subdivision on wildlife appear to be acceptable with conditions because even though the property contains critical habitat for species of concern, the proposed clustered subdivision is located adjacent to an urban setting, will have 5.87 acres of open space, the proposed CC&Rs include language on safe living with wildlife.

6. Historical Features

The Environmental Assessment indicates there are no known historic, archeological, or cultural sites on the subject property.

Finding #15 – The proposed subdivision will not adversely impact historical features because there are no known known historic, archeological, or cultural sites on the subject property.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #16 – The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations and Review Procedure

1. Requested Variances

No variances have been requested with this application.

2. Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

July 31, 2019

ii. Application Deadline Date (6 months from pre-application)

January 31, 2020

iii. Application Submittal Date

July 31, 2019

iv. Completeness Date

August 6, 2019

v. Sufficiency Date

March 3, 2020

vi. Agency Referral Requests Mailing Date

March 3, 2020

vii. Adjacent Property Notification Mailing Date

March 22, 2020

viii. Legal Notice Publication Date

March 24, 2020

ix. On-site Posting of Public Hearing Date

March 25, 2020

Finding #17 – The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.

D. Provision of Easements for the Location and Installation of Planned Utilities

Finding #18 – The preliminary plat identifies adequate easements for utilities to serve the subdivision, including the multi-user well and septic system mains. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

E. Provision of Legal and Physical Access to Each Parcel

Finding #19 – Karrow Avenue would provide legal and physical access to the subdivision and, as conditioned, Lamb Lane would provide legal and physical access to the subdivision lots.

F. Review of Applicable Plans

76-1-605(2)(b) M.C.A states that *A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.* Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

1. Neighborhood Plan

The subject property is not located within an area that is subject to a neighborhood plan.

2. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, MCA and was updated on October 12, 2012. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

G. Compliance with Local Zoning

The property is located within the Rural Whitefish Zoning District and is zoned 'R – 2.5 Rural Residential,' *A district intended for rural, primarily residential areas where larger, estate-type lot sized are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agriculture (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing agricultural/silvicultural, horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein.* [Section 3.43.010 Flathead County Zoning Regulations (FCZR)]. 'Cluster housing development in Residential districts' is listed as a conditional use and requires a Conditional Use Permit within the R-2.5 zoning designation which the applicants received on March 7th, 2019. Staff report for FCU-19-03 outlines compliance with the requirements for the 'Cluster Housing Development in Residential Districts' in Section 4.05 FCZR.

Finding #20 – The proposal generally complies with the Flathead County Growth Policy and the zoning regulations because the proposal conforms to the regulations used in the review of subdivision in Flathead County, and the applicant intends to establish a clustered housing development as allowed by the Conditional Use Permit (FCU-19-03) granted May 7, 2019.

V. SUMMARY OF FINDINGS

Finding #1 – There would be minimal impact on agriculture and agricultural water user facilities as a result of the proposed subdivision as conditioned because the subject property is

not currently used for agriculture, is located adjacent to the City of Whitefish and zoned R-2.5, and the property has no irrigation infrastructure on site, is not in an irrigation district, and is not party to any irrigation agreements.

Finding #2 – The subdivision will have minimal impact on water and wastewater services because the subdivision will utilize a multi-user well and septic system with adequate easements for water and sewer mains, the proposed wastewater treatment system appears to meet DEQ non-degradation standards, and the water and wastewater treatment proposal will be reviewed and approved by the Flathead City-County Environmental Health Department and DEQ prior to final plat approval.

Finding #3 – Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management.

Finding #4 – Impacts on area roads would appear to be acceptable with the imposition of conditions because all lots would be accessed by Lamb Lane, a paved local road and a Private Easement and Road Maintenance Agreement would ensure road maintenance is accommodated on the shared road.

Finding #5 – Impacts on local services with regard to schools, recreation, and mail delivery would appear to be acceptable as the proposed subdivision would add approximately 3 students to the local school district, the applicant is proposing centralized mailboxes, parkland dedication is being accommodated by the 5.87 acre open space which will be maintained by the Homeowners Association, and a bike and pedestrian easement is shown on the preliminary plat along Karrow Avenue.

Finding #6 – Impacts from storm water run-off will be acceptable because the applicants have proposed bioretention facilities along Lamb Lane, all new driveways, and residential structures and the stormwater management plan will require review and approval by the DEQ prior to final plat approval.

Finding #7 – Impacts on fire and medical services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Whitefish Fire Department in the event of an emergency, would be required to meet the requirements of the fire district and the area located within the WUI will be managed and thinned as noted in the Fire Prevention, Control, and Fuels Reduction Plan and the HOA CC&Rs.

Finding #8 – Impacts on police services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Flathead County Sheriff's Department in the event of an emergency.

Finding #9 - Adverse impacts to air quality and noise are not anticipated with standard conditions as all roads accessing the subdivision are already paved, a Dust Control Plan was provided to mitigate potential issues of dust during construction and impacts of noise are not expected to extend beyond property lines.

Finding #10 – The proposal does not appear to have an impact on high voltage electric lines, high pressure gas lines or an airport influence area because the property is not located near any of these hazards.

Finding #11 – No impacts from soils and geological and avalanche hazards are anticipated because the property is relatively flat and there is no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards on the property.

Finding #12 – No impacts to the flora and riparian/ wetland area are anticipated on the subject property as there are no riparian area on the property and the nearest body of water and wetland is located approximately 1,000 feet to the west and a weed management plan will be required as a condition of final plat approval.

Finding #13 – The proposal would not introduce adverse impacts to public health and safety in regard to flood risk because the subject property does not contain any land located within a Special Flood Hazard Area.

Finding #14 – Impacts from the proposed subdivision on wildlife appear to be acceptable with conditions because even though the property contains critical habitat for species of concern, the proposed clustered subdivision is located adjacent to an urban setting, will have 5.87 acres of open space, the proposed CC&Rs include language on safe living with wildlife.

Finding #15 – The proposed subdivision will not adversely impact historical features because there are no known known historic, archeological, or cultural sites on the subject property.

Finding #16 – The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

Finding #17 – The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.

Finding #18 – The preliminary plat identifies adequate easements for utilities to serve the subdivision, including the multi-user well and septic system mains. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

Finding #19 – Karrow Avenue would provide legal and physical access to the subdivision and, as conditioned, Lamb Lane would provide legal and physical access to the subdivision lots.

Finding #20 – The proposal generally complies with the Flathead County Growth Policy and the zoning regulations because the proposal conforms to the regulations used in the review of subdivision in Flathead County, and the applicant intends to establish a clustered housing development as allowed by the Conditional Use Permit (FCU-19-03) granted May 7, 2019.

VI. CONCLUSION

In accordance with the provisions of Section 4.5.7 of the Flathead County Subdivision Regulations, a review and evaluation of the preliminary plat application has been completed by the staff of the Flathead County Planning and Zoning Office. The proposed subdivision appears to generally comply with the subdivision review criteria, pursuant to the Findings of Fact. Should the Planning Board forward a recommendation of approval of this subdivision to

the Flathead County Commissioners, Findings of Fact and Conditions of Approval attached should be adopted.

VII. CONDITIONS OF APPROVAL

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv) and 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The developer shall comply with reasonable fire suppression and access requirements of the Whitefish Rural Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b) FCSR and Finding of Fact (FOF) 7]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25 FCSR and FOF 12]
4. Design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the *Flathead County Minimum Standards for Design and Construction*, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
5. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR and FOF 4]
6. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23 FCSR]
7. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department, and approved by the Montana Department of Environmental Quality. [Sections 4.7.20 and 4.7.21 FCSR and FOFs 2 & 6]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28 FCSR and FOF 5]
9. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22 FCSR and FOF 3]

10. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 9]
11. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
12. The following statements shall be placed on the face of the final plat applicable to all lots:
 - i. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
 - ii. All utilities shall be placed underground. [Section 4.7.23 FCSR]
 - iii. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 9]
 - iv. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR and FOF 3]
 - v. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25 FCSR and FOF 12]
13. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i) M.C.A. and FOF 16]
14. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
15. All required improvements shall be in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16 FCSR]
16. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13 FCSR and FOF 17 & 18]
17. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval

shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

18. A 15-foot bike/pedestrian path easement of shall be shown on the face of the final plat along Karrow Avenue. [Sections 4.7.19 FCSR and FOF 5]
19. Actions called for in the 'Fire Prevention Control and Fuels Reduction Plan' shall be implemented prior to the approval of the Final Plat. The local/reviewing fire authority shall inspect the subdivision and provide written documentation that all thinning, clearing and other mitigation measures described in the plan have been completed as proposed for the subdivision. [Section 4.7.27(b)(iii) FCSR and FOF 7]
20. The following statements shall be placed on the face of the Final Plat:
 - vi. This subdivision is located in the Wildland Urban Interface area where wildfires can and do occur. [Section 4.7.27(a)(ii)(A), FCSR and FOF 7]
 - vii. Only Class A and Class B fire-rated roofing materials are allowed. [Section 4.7.27(a)(ii)(B), FCSR]
 - viii. Firewise defensible space standards shall be incorporated around all RV spaces, primary structures and improvements.
 - ix. All road names are assigned by the Flathead County Address Coordinator. House numbers shall be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in height per number. [Section 4.7.27(a)(ii)(C), FCSR]
21. Lot 1 shall have direct access to Lamb Lane and the approach from Karrow Avenue abandoned. [Section 4.7.7, FCSR and FOF 4 & 19]
22. Prior to final plat approval the developer shall provide evidence that all applicable water right requirements of the Department of Natural Resources Water Resources Division have been met. [Section 4.7.20(d) FCSR]
23. A total of 5.87 acres of land shall be dedicated as open space/parkland and maintained by the Homeowner's Association in accordance with the provisions of Section 4.7.24(d)(ii) FCSR. [Section 4.7.24(d)(ii) and FOF 5]
24. Covenants, Conditions and Restrictions (CC&Rs) shall be recorded at the time of final plat describing the intended use, management, and ownership of the open space. [Section 4.05.010(7), FCZR and FOF 5]